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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 TIERRAVISION, INC.,

12 Plaintiff,

13 vs.

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15 RESEARCH IN MOTION LTD., et al.,

16 Defendants.

CASE NO. 11cv0639 DMS (BGS)

**ORDER GRANTING  
DEFENDANTS' MOTIONS TO  
SEVER AND DENYING AS MOOT  
DEFENDANTS' MOTIONS TO  
DISMISS**

**[Docket Nos. 39, 46, 52]**

17 This case comes before the Court on Defendants' motions to dismiss or sever. Plaintiff filed a  
18 consolidated opposition to the motions, and Defendants each filed a reply. For the reasons discussed  
19 below, the Court grants the motions to sever and denies the motions to dismiss as moot.

20 **I.**

21 **BACKGROUND**

22 Plaintiff Tierravision, Inc. filed the present case on March 30, 2011. Plaintiff alleges Defendants  
23 Research in Motion Ltd. and Research in Motion Corp. ("RIM"), Google Inc. and Microsoft Corp. are  
24 infringing Plaintiff's U.S. Patent Number RE41,983 ("the RE'983 Patent"). Specifically, Plaintiff  
25 alleges RIM is infringing the RE'983 Patent through the use of its BlackBerry Maps application, Google  
26 is infringing the RE'983 Patent through the use of its Google Maps Mobile application, and Microsoft  
27 is infringing the RE'983 Patent through the use of its Bing Mobile application.

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1 **II.**

2 **DISCUSSION**

3 Defendants move to dismiss or sever this case pursuant to Federal Rules of Civil Procedure 20  
4 and 21. Rule 20(a)(2) provides:

5 Persons ... may be joined in one action as defendants if: (A) any right to relief is asserted  
6 against them jointly, severally, or in the alternative with respect to or arising out of the  
7 same transaction, occurrence, or series of transactions or occurrences; and (B) any  
question of law or fact common to all defendants will arise in the action.

8 Fed. R. Civ. P. 20(a)(2). Defendants argue this case does not meet the first prong of the Rule, namely  
9 that the claim arise out of the “same transaction.”

10 The “same transaction” requirement “refers to similarity in the factual background of a claim.”  
11 *Coughlin v. Rogers*, 130 F.3d 1348, 1350 (9<sup>th</sup> Cir. 1997). Plaintiff asserts that requirement is met here  
12 because:

13 [e]ach Defendant has a mapping software application that uses Tierravision’s patented  
14 data compression format. Each Defendant’s mapping application infringes, at least, the  
15 same two claims of the RE’983 patent. Each Defendant operates its infringing mapping  
application via smartphones. Each Defendant, upon information and belief, obtains the  
same mapping data from the same geocoding source.

16 (Opp’n to Mot. at 6.) Other courts have found, however, that these kinds of allegations do not satisfy  
17 the “same transaction” requirement. *See Interval Licensing LLC v. AOL, Inc.*, No. C10-1385 MJP, 2011  
18 WL 1655713, at \*1 (W.D. Wash. Apr. 29, 2011) (granting motion to sever defendants in a patent  
19 infringement case); *Pergo, Inc. v. Alloc, Inc.*, 262 F.Supp.2d 122, 127-28 (S.D.N.Y. 2003) (granting  
20 motion to sever patent infringement claims against multiple defendants, and citing other similar cases).  
21 This Court finds the reasoning of those cases persuasive, and on that basis, grants Defendants’ motions  
22 to sever.<sup>1</sup>

23 **III.**

24 **CONCLUSION AND ORDER**

25 For these reasons, the Court grants Defendants’ motions to sever. Plaintiff shall file two new  
26 complaints, one alleging its second claim against Google and the other alleging its third claim against  
27 Microsoft. The Clerk of Court will assign separate case numbers to these cases, but each case will be  
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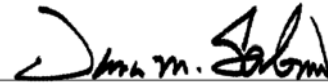
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<sup>1</sup> In light of this ruling, Defendants’ motions to dismiss are denied as moot.

1 assigned to the undersigned district judge and Magistrate Judge Bernard G. Skomal. All three cases will  
2 be consolidated for purposes of claim construction only, and the dates set out in the Court's August 10,  
3 2011 and August 29, 2011 orders shall apply to all three cases. Defendants Google and Microsoft shall  
4 file their Answers and Counterclaims in their respective cases, and Plaintiff shall file its Answers to  
5 those Counterclaims in the respective cases. The Clerk of Court will also waive the filing fee for these  
6 new cases. Plaintiff's first claim against RIM is the only claim that remains at issue in the present case.  
7 The Clerk of Court shall close the present case against Defendants Google and Microsoft.

8 **IT IS SO ORDERED.**

9 DATED: September 16, 2011



HON. DANA M. SABRAW  
United States District Judge